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13 Dreamstime.com, LLC

14 UNITED STATES DISTRICT COURT
15 NORTHERN DISTRICT OF CALIFORNIA
16 SAN FRANCISCO DIVISION
17

18 DREAMSTIME.COM, LLC, a Florida LLC,
19 Plaintiff,
20 v.
21 GOOGLE, LLC, a Delaware LLC; and DOES
22 1-10,
23 Defendants.
24
25
26
27
28

Case No. 3:18-CV-01910-WHA

**DECLARATION OF BOGDAN JIANU IN
SUPPORT OF PLAINTIFF
DREAMSTIME.COM, LLC'S
OPPOSITION TO DEFENDANT
GOOGLE LLC'S MOTION FOR
SUMMARY JUDGMENT**

Judge: Hon. William H. Alsup

Hearing Date: June 18, 2020
Time: 8:30 a.m.

1 I, Bogdan Jianu, declare as follows:

2 1. I am the marketing manager for plaintiff Dreamstime.com, LLC (“Dreamstime.”) I
3 have personal knowledge of the facts set forth herein and if called as a witness I could and would
4 competently testify thereto. I submit this declaration in support of Dreamstime’s Opposition to
5 defendant Google LLC’s (“Google’s”) Motion for Summary Judgment.

6 2. I was deposed in this action in my individual capacity on January 10, 2020.

7 3. I began working for Dreamstime in May 2012. Dreamstime is a stock photo website
8 that offers tens of millions of stock images, illustrations, photographs, clipart and videos for
9 purchase. Dreamstime primarily sells renewable subscriptions to users at set prices depending on
10 the length of subscription. Since approximately January 2014, I have worked as Dreamstime’s
11 marketing manager. As marketing manager, my role is to oversee Dreamstime’s subscription
12 pricing policy, coordinate with local distributors of Dreamstime’s products, and run the company’s
13 promotions. I also work closely with Dreamstime’s CEO Serban Enache to help manage
14 Dreamstime’s Google AdWords account (Google recently changed the name to Google Ads).

15 4. I first started to help manage Dreamstime’s Google AdWords account in 2013.
16 During that time, it was primarily Mr. Enache and I who oversaw Dreamstime’s AdWords account.
17 At the end of 2014, Dreamstime hired Elena Dobre as a consultant to assist with the AdWords
18 account. Ms. Dobre is a digital marketing consultant with experience from previously working at
19 Google and managing AdWords accounts. Since Ms. Dobre started working for Dreamstime she
20 has been the primary contact for Dreamstime’s AdWords account.

21 5. Throughout the time I have worked for Dreamstime, the company’s advertising
22 strategy has remained mostly unchanged. Dreamstime spends around 90 percent of its advertising
23 budget to place ads on Google using AdWords (Google Ads). For most of Dreamstime’s AdWords
24 campaigns, Dreamstime has used a Google automated bidding strategy named “Conversion
25 Optimizer” (later named Target CPA). My understanding, which is based on what Google’s
26 AdWords representatives told me and Google’s publicly available information, is that Conversion
27 Optimizer works to maximize the number of conversions for an ad campaign. As the advertiser,
28 Dreamstime sets a target CPA (cost-per-acquisition) and determines what Google’s system should

1 consider an “acquisition.” Google uses the terms “acquisition” and “conversion” interchangeably.
 2 Dreamstime’s advertising strategy has always been to maximize purchase conversions (a customer
 3 purchase on Dreamstime’s websites), as opposed to other types of conversions like newsletter or
 4 website sign-ups. Dreamstime has used the average CPA achieved in its account one of the primary
 5 ways to measure account performance.

6 6. Shortly before I joined Dreamstime in May 2012, Google assigned Dreamstime a
 7 dedicated AdWords support team with personnel based on Dublin, Ireland and Bucharest, Romania.
 8 The first members of the dedicated support team that I worked with were Tudor Marian, Adriana
 9 Puchianu and Bogdana Butnar. Since then I have worked with many more members of the
 10 AdWords support team because every few years Google assigned different people to support
 11 Dreamstime’s account. They included Ana Sipciu, Maria Stroe, Radu Stoica, Carmen Punga,
 12 Andreea Simulescu, Natalia Domina, Olga Pavliuk, Stijn Tops, Raul Altarescu and others.

13 7. The AdWords support team had titles within Google’s company such as “account
 14 strategist” and “measurement specialist.” When speaking with me and others at Dreamstime, the
 15 AdWords team often referred to themselves as experts or consultants. They let us know they had
 16 special training and access to Google’s internal technical teams and that they had a specialized
 17 understanding of Google’s automated bidding technology. The Google representatives also had
 18 access to non-public Google data about the stock photo industry and our competitors. They told us
 19 they used these when giving us recommendations for improving Dreamstime’s AdWords
 20 performance and when recommending Dreamstime use new Google products. Based on these
 21 representations, and Google’s dominance and success in the online advertising business,
 22 Dreamstime looked to Google’s representatives for recommendations, guidance and information on
 23 the various advertising programs and campaigns that Google developed and offered.

24 8. As long as I have worked at Dreamstime, the Google AdWords support team has had
 25 access Dreamstime’s AdWords account. The AdWords support team could make manual changes
 26 to the account settings and see the same information Dreamstime’s could see in the account. At
 27 times, the AdWords team was able to see information about the account that even Dreamstime
 28 could not. We also gave them access to Dreamstime’s Google Analytics account so they could refer

1 to that performance data when making their recommendations to improve Dreamstime's AdWords
2 performance.

3 9. I and the others at Dreamstime who helped manage the AdWords account trusted and
4 relied on the advice and recommendations of the AdWords support team members, who all held
5 themselves out to have expertise, specialized training, and access to Google's private information
6 and technical support that we at Dreamstime did not. We also let them make manual changes to
7 Dreamstime's account settings and bids. For some campaigns we gave the AdWords team complete
8 control over the settings and optimizations. When new "specialists" joined the AdWords support
9 team (often replacing others), we trusted them as well when they claimed to have expert training
10 and knowledge about how the AdWords system or Google's related products worked and
11 performed.

12 10. Mr. Enache and I (and later Elena Dobre) met regularly with the AdWords team via
13 Google "Hangouts," a Google teleconference and videoconference platform. We held frequent
14 meetings in Google Hangouts to discuss the AdWords teams proposed changes to Dreamstime's
15 account, including new campaigns, bidding strategies, and budget adjustments. The AdWords team
16 also met with us on average at least once per month either at Google's offices or at Dreamstime's
17 European offices in Romania.

18 **The Target ROAS Program and Counting Sign-Up Conversions**

19 11. In early 2014, Mr. Enache and I met on Google Hangouts with the AdWords support
20 team to discuss plans for Dreamstime's ad account for the coming year. Mr. Enache told the
21 AdWords team of Tudor Marian, Adriana Puchianu and Bogdana Butnar that he was concerned that
22 the average CPA in Dreamstime's main account had risen above \$70. Dreamstime had historically
23 had an average CPA in the main account of lower than \$70, and Mr. Enache told the AdWords team
24 that he did not want to make any changes to the account that would not improve (lower) upon the
25 average \$70 CPA. The AdWords team was well aware that Dreamstime's primary goals for the
26 account were to increase purchase transactions (conversions) and to decrease the CPA. The
27 AdWords team proposed several ideas for achieving Dreamstime's financial and budgetary goals.
28 Mr. Enache and I made it clear that the maximum average CPA we could afford was \$70, but that

our goal was to lower the CPA to \$60 or less. There was a mutual understanding that the AdWords support team was to recommend only products and changes that furthered Dreamstime’s desired key performance indicators (“KPIs”).

12. In or around February 2014, Mr. Enache and I met again with Mr. Marian and Ms. Puchianu. They told us about a new smart bidding strategy Google had recently enabled in AdWords named Target ROAS (Return on Ad Spend). They told us they were very confident that this new machine learning bidding strategy would work really well for Dreamstime and improve Dreamstime’s stated KPIs. We had a discussion about the capabilities of Target ROAS and how it would work. Mr. Marian and Ms. Puchianu explained that Target ROAS would allow Google to monitor both website purchases and website sign-ups and be able to bid differently for them based on the target return on ad spend Dreamstime selected. They told us that Google’s system was advanced enough to bid for more keywords that bring purchases and less for those that bring only website sign-ups. They also assured us they understood the technology, that they had received special product training from Google’s technical experts, and that if Dreamstime transitioned to Target ROAS based on their expert recommendations, Dreamstime’s account performance would improve. The AdWords team knew that Dreamstime’s goal was to lower the average CPA in the main account to below \$60 at the time when they recommended Target ROAS. This was hailed by Google as a solution to Dreamstime’s increasing CPA problem. We reiterated that a \$70 CPA was the maximum that Dreamstime would pay for a conversion.

13. Mr. Marian advised us that Dreamstime needed to track website sign-ups as conversions to use Target ROAS; otherwise Google’s automated bidding system would not have sufficient information to operate effectively. By counting sign-ups, Mr. Marian said the system would have more conversions to work with and be able to better optimize to gain more valuable purchase conversions. Mr. Enache and I were skeptical of counting sign-ups as conversions because Dreamstime did not value free website sign-ups and website sign-ups were not part of our marketing strategy. We did not express an interest in counting website sign-ups, as Mr. Marian inaccurately claims in his declaration. (Marian Decl. ¶ 28.) Dreamstime’s marketing strategy focused on *purchase* conversions (customer purchases on Dreamstime’s website that generated

revenue). We specifically explained to the AdWords team that website *sign-ups* were not our goal. In response, Mr. Marian assured us that Google's system was capable of focusing on optimizing for customer purchases (as Dreamstime had been doing) and also increase website sign-ups. The AdWords team also assured us that Dreamstime could go back to using the Conversion Optimizer bidding strategy (without any negative repercussions) after "testing" Target ROAS and achieve the same level of account performance as before, which at the time was an average CPA of approximately \$70. Based on Google's many assurances, we agreed to implement the Target ROAS strategy. We learned later, however, that Google's various representations were not true. When Dreamstime stopped Target ROAS several months later because the account performance was a disaster, Mr. Marian revealed that the Conversion Optimizer had to start over (causing negative effects on the account) because the historical data the Conversion Optimizer relied upon had been lost. If we had known this information at the outset we would not have agreed to implement Target ROAS at all.

14. On February 25, 2014, the AdWords team provided us with instructions for what must be done to run Target ROAS in the account. The instructions stated that we needed to set up two types of conversions, purchases and website sign-ups (referred to as leads). The AdWords team also told us we needed to assign a value to both types of conversions. I know now looking back that both of these Google statements were false. I learned later that Dreamstime did not need to count sign-ups and conversions to use Target ROAS. Mr. Enache followed the AdWords teams' instructions but at first tried to enter "don't assign value" for the website sign-up conversion type because Dreamstime did not value website sign-ups. Ms. Puchianu responded that we had to input a value. Following Ms. Puchianu's instructions, Mr. Enache and I discussed what value to assign sign-ups. We calculated \$4 to \$5 because historically about 10% of users who signed up for Dreamstime accounted ended up making purchases. But we realized later this was far too high because at the time we did not realize that Google's Target ROAS system would drive users much less likely to make purchases to Dreamstime's website. Google's representatives told us the system would do the opposite. Marian later reduced the value to \$2 following a flood of unexpected sign-up conversions. But that was still far too high and too late. If we knew Target ROAS did not

1 require Dreamstime to count website sign-ups as conversions we would not have done counted
2 sign-ups as conversions. Dreamstime had no interest in increasing sign-ups and any potential future
3 benefit from additional sign-ups was too speculative.

4 15. In early March 2014, Dreamstime began counting sign-ups as conversions before
5 activating Target ROAS based upon the AdWords team's advice. The immediate results were
6 alarming. The Conversion Optimizer campaigns began generating hundreds of website sign-ups. A
7 few days later, in or around March 7, 2014, Mr. Marian set up the Target ROAS campaigns in
8 Dreamstime's account. Over the next several months, he oversaw the campaigns and made manual
9 changes in the account to purportedly try to optimize the campaigns. Mr. Enache and I tried to
10 monitor the performance of the campaigns, but the AdWords interface did not separate the
11 performance of purchase conversions and sign-up conversions. We wanted to see the average CPA
12 for purchase conversions, but we could not see this important and needed information. We were
13 forced to ask Mr. Marian to report it to us because he did have access to this critical information.
14 When the Target ROAS campaigns did not perform well, each time Mr. Marian assured us that we
15 needed to wait longer. He informed us that Google's system needed time to learn and that he was
16 working with Google's technical specialists to input account optimizations to help the campaigns.
17 Mr. Marian assured us that he and the AdWords team knew what was happening, that he was in
18 contact with Google's technical specialists, that they were sure performance would improve, and
19 that staying the course was what was best for Dreamstime's KPIs. We relied on Mr. Marian's
20 assurances and Google's expertise and continued with the Target ROAS program despite the
21 chaotic and damaging economic results.

22 16. In or around August 8, 2014, Mr. Enache expressed Dreamstime's concerns about
23 the account performance because the Target ROAS strategy had not worked or performed as the
24 AdWords team assured us it would. He asked Mr. Marian if Dreamstime could stop counting sign-
25 up conversions because we believed that they might be the cause for the increase in CPA for
26 purchase conversions. Mr. Marian responded that he would check with the Google specialists. Mr.
27 Marian then told us that it was okay to pause sign-up conversions. Following that assurance, on
28 August 12, 2014, Mr. Enache paused sign-up conversions. As a result, the Target ROAS campaigns

1 were left to optimize only for purchase conversions. This resulted in a large drop in volume for the
 2 Target ROAS campaigns. But significantly, it also caused a substantial drop in the number of
 3 purchase conversions the campaigns had been generating when we were still counting sign-ups as
 4 conversions. Mr. Marian did not warn us of such a substantial risk. He also assured us that this was
 5 normal and that Google's system just needed time to adjust.

6 17. In or around the end of August, 2014, Mr. Enache instructed Mr. Marian to revert
 7 from Target ROAS back to Conversion Optimizer. When Mr. Marian did this, the results were
 8 horrific. On September 11, 2014, Mr. Marian reported that the CPA for Dreamstime's main search
 9 campaign ballooned to over \$300, several times more than the same campaign's CPA before
 10 switching to Target ROAS, and over four times more than Dreamstime's stated average \$70 CPA
 11 limit. Mr. Marian claimed that changing the bidding manner reset the information used by the
 12 Google system and that it would need to collect new data to optimize again. In other words, the
 13 historical data the Conversion Optimizer used before when it delivered an average CPA of
 14 approximately \$70 or less had been erased. Mr. Marian claimed none of the damage was
 15 "irreversible" and told us the system would "quickly improve." Unfortunately, our experience has
 16 proven otherwise. Dreamstime has not been able to return to the levels of account performance
 17 which were achieved before the Target ROAS switch even though we closely followed Google's
 18 instructions and advice. It is clear now that Mr. Marian and his team did not understand the Target
 19 ROAS technology when they convinced us to adopt it and spend our budgeted funds. Google urged
 20 us to implement Target ROAS based on the false assurances of its representatives, who utterly
 21 failed to advise Dreamstime fully and correctly as to the technologies requirements, capabilities and
 22 failings.

23 **Google's Dynamic Remarketing Ad Program**

24 18. In or around June, 2014, the AdWords team recommended that Dreamstime use
 25 Google's dynamic remarketing display ads technology. During a meeting attended by me and Mr.
 26 Enache, Dreamstime's "Account Manager" from Google, Maria Stroe, recommended that
 27 Dreamstime begin using Google's sophisticated machine-learning display ads product named
 28 dynamic remarketing display ads. Stroe explained that Google's dynamic remarketing display ads

1 remarket users in a dynamic, customized way by showing them the *exact* images they interacted
2 with while browsing on Dreamstime’s website. Mr. Enache and I were very interested in this
3 feature the way Ms. Stroe described it to us because we recognized that users who came to
4 Dreamstime’s website but did not purchase anything would be likely to return and purchase if we
5 reminded them of something they had previously viewed. But as a company selling stock photos
6 online, for this seemingly valuable marketing product to work well for Dreamstime, the remarketed
7 photo needed to be the exact same photo the user interacted with or at least something substantially
8 similar

9 19. Ms. Stroe emailed Dreamstime with information following our initial discussions.
10 She told us we would have to use a remarketing feed that included the items from Dreamstime’s
11 website we wanted to remarket to users. She also mentioned that the feed would be limited to
12 450,000 items per account. But Ms. Stroe did not explain that the limited feed size would prevent
13 Google from showing Dreamstime’s visitors the exact photo they viewed on the website or a very
14 similar one. In follow up emails and discussions, Ms. Stroe continued to emphasize that Google
15 would show the user the exact image view on Dreamstime’s website or something similar. On June
16 10, 2014, she wrote “we’re retargeting every user, in a customized manner, with banners that show
17 him the exact image or category of images that he left in the Lightbox or viewed on the website but
18 didn’t download it.” She also sent us an information packet which we carefully reviewed.

19 20. In June 2014, Dreamstime offered on its website tens of millions of images for
20 purchase. Ms. Stroe had been our Google account manager for many months at that point. She
21 either knew or should have known how many items Dreamstime made available for sale on its
22 website as one of the largest stock photography websites in the world. However, Ms. Stroe did not
23 express any concerns to us about the remarketing feed size being limited or that it would negatively
24 affect the ability of the program to perform as described. Stroe assured us that Google’s dynamic
25 remarketing display ads were a good fit for Dreamstime’s KPIs. Based on her assurances,
26 Dreamstime agreed to create dynamic remarketing campaigns with the help of the AdWords support
27 team, who approved our remarketing feed of images, set up the campaigns and set the
28 optimizations. Neither Mr. Enache nor I were capable of setting up the campaign, only Google was.

We fully trusted her when she said the dynamic remarketing campaign would show users the exact images they interacted with or ones that were very similar. We learned later, however, based on our own experience that Google’s “dynamic” system did not work as Stroe told us it would. Google’s remarketing system remarketed to users that interacted with an item on Dreamstime’s website even if that exact item or a similar item did not exist in the remarketing feed. Stroe and her Google colleagues did not explain this important fact to us. The information she provided also did not explain this inadequacy of Google’s program for Dreamstime’s purposes. Google’s system worked to show a remarketing ad to as many users that visited Dreamstime’s website as possible even if the remarketing feed did not include a similar image. This resulted in subpar campaign performance but also caused many users to be upset because Google’s system decided to show them a completely unrelated image that appeared inappropriate given the user’s past visits to Dreamstime’s website.

21. Dreamstime’s dynamic remarketing campaigns performed poorly at first. We thought initially that the problem with the performance might have been due to the limited size of the remarketing feed Google provided us. On December 4, 2014, I asked Radu Stoica at Google if it was possible for Google’s system to remarket by targeting users who had downloaded certain images and serve them with similar images. He responded that it was not because the only way to give Google’s algorithm information is through the remarketing feed. He said to do what I asked would require one feed with an image for each image available on Dreamstime’s website and that was not possible. Attached as **Exhibit A** is a true and correct copy of a document previously-marked Exhibit 49, which includes my email exchange with Mr. Stoica. This response dramatically conflicted with how Ms. Stroe explained Google’s dynamic remarketing product worked.

22. After learning this, my colleagues and I at Dreamstime asked many times for Google to increase the size of the remarketing feed available to Dreamstime. The AdWords representatives told us they would check, that new features were on the way, and that the feed size limitation would likely increase in the future. It was not until June 26, 2016, that Google gave Dreamstime an opportunity to increase, to a limited extent, the feed size. A Google representative named “Lisa” emailed me to tell me that Google’s remarketing platform had changed and could now

1 accommodate up to 5 million items in the dynamic remarketing feed. She did not explain why the
 2 feed size available to Dreamstime had increased. Attached as **Exhibit B** is a true and correct copy
 3 of this email. *See id.* at P-0000638. We welcomed the increased feed size but knew that it was still
 4 far too small to include all items on Dreamstime's website for the remarketing program to perform
 5 optimally.

6 23. In February 2017, Dreamstime switched some of its dynamic remarketing efforts to
 7 another advertising company named Criteo. Unlike our past experience with Google, Criteo was
 8 able to create a remarketing feed with all of Dreamstime's available items. When Google's
 9 representative Olga Pavliuk learned of this, she told us to send her the Criteo feed and Google
 10 would transform it into AdWords so Dreamstime could remarket all of its images on AdWords. We
 11 sent her the Criteo feed but Google failed to transform all of it after many months. We were told it
 12 was due to technical limitations. This raised doubts in my mind as to whether our AdWords
 13 representatives told us the truth when we asked previously for Google to increase the size of the
 14 remarketing feed and the AdWords representatives told us it was technically not possible.

15 24. As I stated above, the more significant problem with Google's dynamic remarketing
 16 system was that it elected to show images to users even if the exact image or a similar image was
 17 not in Dreamstime's remarketing feed. We learned based on our own testing and from customer
 18 complaints that Google's system showed images completely unrelated to a user's past behavior on
 19 Dreamstime's website. That was not how the technology was explained to us when Ms. Stroe
 20 induced us to create the dynamic remarketing campaigns. This resulted in Google showing
 21 Dreamstime's former or potential customers irrelevant images that appeared inappropriate when
 22 viewed from the user's perspective. This was obviously not an effective way to generate
 23 conversions and if we knew this was how the technology worked from the outset we would not have
 24 used it in the way we did.

25 25. Google misled us to believe its dynamic remarketing system was good for
 26 Dreamstime's business and induced us to increase investment in AdWords. When we discovered
 27 poor performance or that the system was not working in the way Google's representatives presented
 28 it, Google's representatives assured us they would investigate, told us improvements were coming,

1 or told us they could improve the performance. When we told them we were considering closing our
2 dynamic remarketing campaigns, they warned us it would hurt our account performance and we
3 would lose the valuable historical data already collected. It is clear to me now that Google's
4 representatives misrepresented how the product worked and its capabilities to induce Dreamstime to
5 spend more on Google ads and keep spending on Google ads.

6 **HTML5 Banner Ads**

7 26. Google's representatives also misled us about its ability to display Dreamstime's
8 banner ads with HTML5 enabled search bars. In 2015 and 2016, Google disapproved many of
9 Dreamstime's display banner ads as being in violation of Google's "trick to click" policy even
10 though Google had not disapproved nearly identical display ads with higher CPAs. When we asked
11 for explanations to avoid disapprovals, the Google representatives' explanations were unclear. At
12 one point we were told to just re-submit the same banner ads because Google's Policy team may
13 find them acceptable the second time around even though the ads had not changes.

14 27. In late 2016, a member of our AdWords support team from Google named Raul
15 Altarescu proposed a solution to this problem. He told us we could design dynamic ads using
16 HTML5 technology to include functional search bars. In December 2016, he told us he checked
17 with Google's policy teams and this would not violate the trick to click policy. Dreamstime
18 proceeded to create HTML5 banner ads according to the AdWords team's instructions. We
19 followed Altarescu's directions and submitted them to be served in AdWords. Altarescu notified us
20 that there was a technical problem that prevented the ads from working properly, but he believed he
21 could solve the problem with help from Google's technical specialists. Altarescu did not respond to
22 our requests for additional information.

23 28. In January 2017, Dreamstime's new AdWords account manager told us to submit the
24 newly designed HTML5 banner ads and that they could be used for all campaigns. Over the months
25 that followed, Google disapproved several of our better performing HTML5 banner ads but left the
26 worse performing ones active. We asked for explanations but did not receive clear answers. Our
27 Google account manager Natalia Domina told us the issue was with the way we designed the
28 HTML5 banners, but as far as we could tell we had created them as Google instructed.

29. It was not until April 12, 2017, that Google's representatives told us it was technically not possible to run HTML5 banner ads the way Mr. Altarescu told us we could. It was not a problem with the way Dreamstime designed the ads, as Ms. Domina advised us, but rather a technical limitation in the AdWords system. We did not learn until discovery in this litigation that Mr. Altarescu received this same information from Google's technical specialist in December 2016 (the same time frame that he sold Dreamstime on the HTML5 searchable box ad program) but failed to share that critical information with us. The misrepresentations and inconsistent advice from Dreamstime's AdWords representatives, and the fact that Dreamstime's most successful display ads were being cancelled while less efficient ones were allowed to run, caused Dreamstime to overspend for these inefficient ad campaigns. If the AdWords team had not misled us as to the capabilities of HTML5 ads, Dreamstime would not have created the HTML5 banner campaigns.

Foreign and Localized Ads

30. In meetings and Hangouts, Google representatives pushed Dreamstime to create foreign language and localized ad campaigns according to the Google representatives' specifications. In or around late Spring of 2017, the Google "industry manager" assigned to Dreamstime's AdWords account was Carmen Punga. Ms. Punga visited Dreamstime's office to meet with me and Mr. Enache. We discussed various topics during the meeting, among them was Ms. Punga's apology for Olga Pavliuk's misrepresentation to us a few months earlier that Google could transform Criteo's remarketing feed into an AdWords feed, as I discussed above. Ms. Punga also recommended that Dreamstime create new foreign and localized campaigns in Germany, France and the United Kingdom. She assured us that implementing these campaigns would allow Dreamstime to gain valuable new customers and meet Dreamstime's KPIs. I raised doubts with Ms. Punga's idea because the prior AdWords support teams had already created foreign ad campaigns targeting those countries and they had not been successful. In fact, Mr. Marian himself created an entire new account for Dreamstime's German and French language campaigns. He created campaigns, set bids, and oversaw optimization, yet the account did not delivery conversions at a CPA that was beneficial to Dreamstime. When we asked for explanations from our AdWords

1 support team as to why the foreign language campaigns delivered poor results, we did not receive
2 any clear explanations or solutions.

3 31. Given Dreamstime's prior lack of success in foreign localized campaigns created at
4 the insistence of and overseen by the AdWords Support team, I asked Ms. Punga how we can trust
5 her representations that new campaigns of the very same type that were previously unsuccessful
6 would be a great fit or benefit for Dreamstime. Ms. Punga told us that she and her new team should
7 not be held responsible or accountable for what our prior AdWords support team members did or
8 their shortcomings. She told us her team had the experience and training necessary to deliver
9 excellent results using foreign language and localized campaigns. She also claimed Google's
10 product had improved. Ms. Punga brought up all of these things as reasons why Dreamstime should
11 follow her strong recommendation. She eventually convinced Mr. Enache and me that her team
12 was capable and that these new campaigns would improve Dreamstime's overall AdWords account
13 performance.

14 32. On May 25, 2017, as a follow-up to our meeting with Ms. Punga, Andreea
15 Simulescu, one of our Google account managers, sent us her analysis of Dreamstime's Germany
16 and France campaigns and the reasons they had not been successful. *See Exhibit C* at P_009037-46.
17 She told us improve the landing pages and create more compelling ad texts. She also told us her
18 team could improve the overall performance from these campaigns through certain optimizations.
19 In our discussions with Ms. Punga and Ms. Simulsecu that followed, they convinced Mr. Enache
20 and me that her team was capable and that these new campaigns would improve Dreamstime's
21 overall AdWords account performance. Rather than testing these foreign campaigns in all of the
22 countries as Ms. Punga wanted us to commit to, Mr. Enache and I agreed to allow Ms. Punga to
23 create a campaign for the German market only. We granted Ms. Punga and her team total control
24 over the campaign, and agreed to provide several landing page options and whatever was needed
25 from our end. We told her that if the German campaign is successful we can expand out and do the
26 same of France and the United Kingdom. Also at Ms. Punga's request, we prepared a lifetime
27 customer value calculation for the German market and shared it with the AdWords support team so
28 they could fully understand our goals for the campaign. We calculated the value at \$74.21, which

1 meant the CPA for the German language campaign had to be in that range for Dreamtime to see
 2 profits. Attached as **Exhibit D** is a true and correct copy of the spreadsheet I share with the
 3 AdWords support team with this calculation that was produced in discovery with the number
 4 P_0166217. I made a few follow-up attempts on this topic, but Google never answered.

5 33. The Google representatives created the campaign in Dreamtime's account, were in
 6 charge of the language translations, and designed the texts of the ads. These were a few of the areas
 7 identified for improvement from Dreamtime's prior campaigns. On May 30, 2017, the AdWords
 8 support team even selected the landing page for the German campaign after I sent them examples
 9 per their request. Attached as **Exhibit E** is a true and correct copy of a document previously-
 10 marked Exhibit 211 which includes this email correspondence. *See id.* at P_0031590. The
 11 AdWords team assured us that the campaign would work because she and her expert team had set
 12 everything up.

13 34. A few months earlier, in April 2017, Ms. Punga, Ms. Simulescu and Radu Stoica
 14 strongly advised a new localized campaign named referred to as Creative Hubs. During a meeting
 15 regarding potential new campaigns, Ms. Punga explained that Dreamtime was losing out on many
 16 high-value potential customers living in large metropolitan cities. The AdWords team told us that
 17 the CPA Dreamtime was achieving from its current campaigns in specific, large cities could be
 18 improved with their help. Following that recommendation, Dreamtime chose to start with New
 19 York and London. Like the German language campaign, Dreamtime gave full control of the
 20 Creative Hubs campaign to the AdWords support team. The Google representatives assured us the
 21 results would improve Dreamtime's KPIs. Even though we followed Google's specific advice, set
 22 a single keyword, and assigned a large budget with a very high bid, the Creative Hubs campaign did
 23 not generate conversions.

24 35. Despite Google having total control over the German language campaign and the
 25 Creative Hubs campaign, the results were poor. We asked for an explanation from the Google as to
 26 why the campaigns were not performing how the Google representatives' described and assured us
 27 it would. On September 4, 2017, Elena Dobre emailed the AdWords team to ask specifically why
 28 both the Creative Hubs and German language campaigns under the AdWords team's guidance were

1 not performing well. Attached as **Exhibit F** is a true and correct copy that email which I was
 2 copied on. *See id.* at P_0004182. We did not receive an explanation from Google. A review of
 3 Google's internal communications produced in discovery in this litigation now reveals that Andreea
 4 Simulescu sought help from Google's technical specialists back in October 2017 seeking an
 5 explanation for why the German language campaign had not delivered conversions from August
 6 2017 to October 2017. Google's technical specialist responded that the campaign had been set to a
 7 manual CPC bidding strategy which was an inappropriate setting because it did not optimize for
 8 conversions. *See Exhibit G* a document previously-marked as Exhibit 215 at GOOG-DRMSTM-
 9 00003784 (campaign ID: 894636468 designates the German language campaign). In other words,
 10 Dreamstime's AdWords support team failed to select the correct bidding strategy for Dreamstime's
 11 KPIs, failed to realize this was the problem, and had to be told by a technical specialist. (*See id.*) In
 12 response, Simulescu asked for other [REDACTED] because [REDACTED]
 13 [REDACTED] (*See id.*) Google's technical specialist responded
 14 that other reasons that might cause poor performance are the keyword quality score was low and the
 15 landing page experience was poor. *See Exhibit H* at GOOG-DRMSTM-00010851-53. But these
 16 are things or criteria that the Google representatives set up in the campaign or knew about
 17 beforehand. Simulescu did not, however, disclose this important information with us, apparently
 18 choosing instead to keep her and her team's failure a secret from us.

19 36. Google has persistently continued to suggest increased bids or budgets or for
 20 Dreamstime to wait for better performance results where Dreamstime has previously had very poor
 21 results. By following Google's advice and assurances, Dreamstime was delayed for many months
 22 while communicating with Google's representatives. Often problems remained unsolved, which
 23 left Dreamstime no choice but to pause the problematic advertising campaigns (leading to total
 24 loss), disruption to its business, and slowed growth. In most cases, these strong recommendations
 25 (which we heeded and followed) returned results that were nowhere near those contemporaneously
 26 represented by Google.

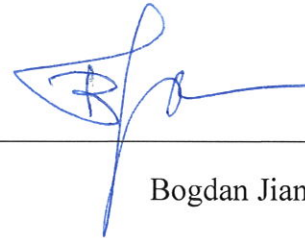
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2 I declare under penalty of perjury under the laws of the United States of America and the
3 State of California that the foregoing information is true and correct. Executed on May 14, 2020, at
4 Bucharest, Romania.

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Bogdan Jianu

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